

11433. Adulteration of canned cherries. U. S. v. 1,000 Cases of Canned Cherries. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 16803. I. S. No. 3765-v. S. No. C-3799.)

On September 6, 1922, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 1,000 cases of canned cherries, remaining unsold in the original unbroken packages at Chicago, alleging that the article had been shipped by Mikesett [Mikesell] & Co., from Traverse City, Mich., August 14, 1922, and transported from the State of Michigan into the State of Illinois, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Barco Brand * * * Red Pitted Cherries."

Adulteration of the article was alleged in the libel for the reason that it consisted in part of a filthy, decomposed, and putrid vegetable substance.

On April 4, 1923, Mikesell & Co., Traverse City, Mich., claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that it be sorted, the bad portion destroyed and the good portion released to the said claimant.

C. F. MARVIN, *Acting Secretary of Agriculture.*

11434. Adulteration and misbranding of olive oil. U. S. v. John Zeppos, Nicholas Antonio, and Anthony Antonio (Alpha Importing Co.). Pleas of guilty. Fine, \$300. (F. & D. No. 16857. I. S. Nos. 5092-t, 5093-t, 5094-t, 5486-t, 5626-t, 5627-t, 5628-t, 12151-t.)

At the February, 1923, term of the United States District Court, within and for the Southern District of New York, the United States attorney for said district, acting upon a report by the Secretary of Agriculture, filed in the district court aforesaid an information against John Zeppos, Nicholas Antonio, and Anthony Antonio, copartners, trading as the Alpha Importing Co., New York, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, as amended, in various consignments, namely, on or about May 3, 11, and 21, 1921, respectively, from the State of New York into the State of Massachusetts, and on or about May 7, 1921, from the State of New York into the State of New Hampshire, of quantities of olive oil, a portion of which was adulterated and misbranded and the remainder of which was misbranded. A portion of the article was labeled in part: "Marconi Brand Finest Pure Olive Oil Guglielmo Marconi * * * Extra Fine." The remainder of the article was contained in a barrel and was labeled in part, (tag) "From Alpha Importing Co. 351 East 32nd St., New York," and was invoiced as olive oil.

Analysis by the Bureau of Chemistry of this department of a sample of the article contained in the said barrel showed that it contained approximately 25 per cent of cottonseed oil. Examination of the Marconi brand by said bureau showed that the said cans contained less of the said article than declared on the respective labels, and in one shipment the product contained a large quantity of added oil other than olive oil.

Adulteration of the article contained in the said barrel was alleged in the information for the reason that cottonseed oil had been substituted in whole or in part for olive oil, which the said article purported to be. Adulteration was alleged with respect to one shipment of the Marconi brand oil for the reason that a substance, to wit, an oil other than olive oil, had been substituted in whole or in part for olive oil, which the said article purported to be.

Misbranding of the article contained in the said barrel was alleged for the reason that it was a mixture composed in whole or in part of cottonseed oil, prepared in imitation of olive oil, and was offered for sale and sold under the distinctive name of another article, to wit, olive oil. Misbranding was alleged with respect to one shipment of the Marconi brand for the reason that it was a mixture composed in whole or in part of an oil other than olive oil, prepared in imitation of olive oil, and was offered for sale and sold under the distinctive name of another article, to wit, olive oil.

Misbranding was alleged with respect to the Marconi brand oil for the reason that the statements, to wit, "One Full Gallon," "Half Full Gallon," "Quarter Full Gallon," and "Eighth Full Gallon," borne on the respective-sized cans containing the article, and the statement, to wit, "Finest Pure Olive

Oil," borne on the cans contained in one shipment thereof, regarding the said article and the ingredients and substances contained therein, were false and misleading in that they represented that the said cans contained one full gallon, one full half gallon, one full quarter gallon, or one full eighth gallon of the article, as the case might be, and that the said shipment consisted of olive oil, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the said cans contained one full gallon, one full half gallon, one full quarter gallon, or one full eighth gallon of the article, as the case might be, and that the said shipment consisted of olive oil, whereas, in fact and in truth, each of said cans did not contain the amount so declared on the labels but did contain a less amount, and the said shipment did not consist of olive oil but was a mixture composed in whole or in part of an oil other than olive oil.

Misbranding was alleged with respect to all of the said product for the reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 12, 1923, the defendants entered pleas of guilty to the information, and the court imposed a fine of \$300.

C. F. MARVIN, *Acting Secretary of Agriculture.*

11435. Adulteration and misbranding of cherry emulsion, grape emulsion, strawberry emulsion, and pineapple emulsion. U. S. v. Morris H. Caro (Caro Flavoring Co.). Plea of guilty. Fine, \$40. (F. & D. No. 17066. I. S. Nos. 6783-t, 6784-t, 6785-t, 6786-t.)

On March 27, 1923, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Police Court of the District aforesaid an information against Morris H. Caro, a member of a partnership trading as Caro Flavoring Co., Washington, D. C., alleging shipment by said defendant, in violation of the Food and Drugs Act, from the District of Columbia into the State of Massachusetts, on or about February 4, 1922, of a quantity of cherry emulsion and of a quantity of grape emulsion, and on or about February 9, 1922, of a quantity of strawberry emulsion and of a quantity of pineapple emulsion, all of which were adulterated and misbranded. The articles were labeled in part: "Caro Flavoring Co. H. & H. Brand One Quart Cherry Emul (Wild)" (or "Grape Emulsion" or "Strawberry Emulsion" or "Pineapple Emulsion") "* * * Washington, D. C."

Analyses of samples of the articles by the Bureau of Chemistry of this department showed that they consisted principally of citric acid and gum with the additional ingredient, in the case of the grape emulsion, of glycerin. They were colored with coal-tar dyes and artificially flavored. No natural odor of the true fruit could be detected.

Adulteration of the articles was alleged in the information for the reason that imitation emulsions consisting chiefly of citric acid and gum or of citric acid, gum, and glycerin, in the case of the grape emulsion, and having little, if any, odor or flavor of natural fruit, had been substituted in whole or in part for wild cherry emulsion, grape emulsion, strawberry emulsion, or pineapple emulsion, as the case might be, which the said articles purported to be. Adulteration was alleged for the further reason that the articles were inferior to wild cherry emulsion, grape emulsion, strawberry emulsion, or pineapple emulsion, as the case might be, to wit, imitation emulsions consisting chiefly of citric acid and gum and having little, if any, flavor or odor of natural fruit, and the said articles were colored with certain coal-tar dyes, to wit, amaranth, in the case of the wild cherry emulsion and the strawberry emulsion, amaranth and indigo carmine, in the case of the grape emulsion, and fartrazine, in the case of the pineapple emulsion, so as to simulate the appearance of wild cherry emulsion, grape emulsion, strawberry emulsion, or pineapple emulsion, as the case might be, and in a manner whereby their inferiority to said articles was concealed.

Misbranding was alleged for the reason that the statements, to wit, "Cherry Emul (Wild)," "Grape Emulsion," "Strawberry Emulsion," and "Pineapple Emulsion," borne on the labels attached to the bottles containing the respective articles, regarding the said articles and the ingredients and substances contained therein, were false and misleading in that the said statements represented that the articles were, to wit, wild cherry emulsion, grape emulsion, strawberry emulsion, or pineapple emulsion, as the case might be, and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser into the belief that they were, to wit, wild cherry